

Message Text

UNCLASSIFIED

PAGE 01 OTTAWA 02204 282211Z
ACTION L-03

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R 281623Z APR 78
FM AMEMBASSY OTTAWA
TO SECSTATE WASHDC 7230

UNCLAS OTTAWA 02204

E.O. 11652 N/A
TAGS: CASC, CGEN, CA
SUBJECT: REQUEST FOR EMBASSY ASSISTANCE IN CANADIAN COURT
CASE

1. AN AMERICAN CITIZEN RESIDENT IN MASSACHUSETTS IS SUING IN CANADIAN COURT FOR VETERANS PENSION RIGHTS. CANADIAN AUTHORITIES HAVE INFORMED ATTORNEY THAT PLAINTIFF MUST ESTABLISH AN ADDRESS WITHIN A CANADIAN JUDICIAL JURISDICTION IN ORDER FOR CASE TO BE HEARD BY FEDERAL APPEAL COURT OF CANADA. THE ATTORNEY HAS WRITTEN TO THE EMBASSY ASKING THAT PLAINTIFF BE ALLOWED TO USE EMBASSY ADDRESS FOR THIS PURPOSE, WITH ANY COSTS INCURRED TO BE BORNE BY PLAINTIFF.

2. WHILE WE WISH TO BE HELPFUL IN RESPONDING TO REQUESTS FROM AMCITS, WE PERCEIVE SOME PITFALLS IN THIS CASE. EVEN IF CANADIAN JUDICIARY WOULD ACCEPT EMBASSY AS BEING WITHIN A CANADIAN JURISDICTION BY VIRTUE OF ITS PHYSICAL LOCATION, OUR ACQUIESCENCE TO THAT DECISION (OR IN THIS CASE, OUR AFFIRMATIVE ACTION IN GIVING THE EMBASSY ADDRESS FOR THE PLAINTIFF) WOULD POSSIBLY HAVE UNDESIRABLE IMPLICATIONS WITH REGARD TO IMMUNITIES. FURTHERMORE, PLACING EMBASSY IN POSITION OF MIDDLEMAN IN TRANSMITTAL OF COURT-RELATED DOCUMENTS, SOME OF WHICH UNDOUBTEDLY WILL HAVE DEADLINES FOR RESPONSE, MIGHT RAISE QUESTIONS OF LIABILITY SHOULD ANY DOCUMENTS BE DELAYED OR GO ASTRAY.

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3. WE BELIEVE THAT THESE CONSIDERATIONS OUTWEIGH OUR GENERAL POLICY OF RESPONSIVENESS TO AMCITS, AND BELIEVE IT WOULD BE APPROPRIATE TO ADVISE THE ATTORNEY THAT WE MUST REGRETFULLY DECLINE HIS REQUEST. WE WOULD APPRECIATE THE DEPARTMENT'S COMMENTS ON THIS ISSUE AS PROMPTLY AS POSSIBLE. ENDERS

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NNN

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